

## Surface Transportation Board, DOT

## § 1121.4

Commission's Uniform System of Accounts (49 CFR Part 1207).

[47 FR 36184, Aug. 19, 1982. Redesignated at 47 FR 49570, Nov. 1, 1982]

### § 1120.2 Purpose.

In any proceeding requiring the development of platform handling times for distribution of platform expense, carriers may use the results of the national weight formula contained in the Commission's study, *entitled 1977-1978 Motor Carrier Platform Study*, Statement 2S1-79.

[47 FR 36184, Aug. 19, 1982. Redesignated at 47 FR 49570, Nov. 1, 1982]

## PART 1121—RAIL EXEMPTION PROCEDURES

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AUTHORITY: 49 U.S.C. 10505; 5 U.S.C. 553.

SOURCE: 56 FR 46391, Sept. 12, 1991, unless otherwise noted.

### § 1121.1 Scope.

These procedures govern petitions filed under 49 U.S.C. 10505 to exempt a transaction or service from 49 U.S.C. subtitle IV, or any provision of 49 U.S.C. subtitle IV.

### § 1121.2 Criteria.

Under 49 U.S.C. 10505, the Commission must exempt a person, class of persons or a transaction or service from regulation when it finds that:

(a) Regulation is not necessary to carry out the rail transportation policy of 49 U.S.C. 10101a; and

(b) Either:

(1) The transaction is of limited scope; or

(2) Regulation is not necessary to protect shippers from the abuse of market power.

### § 1121.3 Petitions for exemption.

(a) A petition must comply with environmental or historic reporting and notice requirements of 49 CFR Part 1105, if applicable.

(b) If the exemption proposal involves the acquisition of a motor car-

rier by a rail carrier (or person who controls or is affiliated with a rail carrier) under 49 U.S.C. 11344(c), the petition must include sufficient information to show that the transaction:

(1) Is consistent with the public interest;

(2) Will enable the rail carrier to use motor carrier transportation to public advantage in its operations; and

(3) Will not unreasonably restrain competition.

### § 1121.4 Procedures.

(a) Proposals contained in a petition for exemption under 49 U.S.C. 10505 are considered on their own merit.

(b) Exemption proceedings are informal, and public comments are not sought during consideration of exemption petition proposals. However, the Commission may consider during its deliberation any public comments filed in response to a petition for exemption.

(c) If the Commission determines that the criteria in 49 U.S.C. 10505 are met for the proposed exemption, it will issue the exemption and publish a notice of the exemption in the FEDERAL REGISTER.

(d) If the impact of the proposed exemption cannot readily be ascertained from the information contained in the petition or accompanying submissions or if significant adverse impacts might occur if the proposed exemption were granted, the Commission, in its discretion, may:

(1) Direct that additional information be filed; or

(2) Publish a notice in the FEDERAL REGISTER requesting public comments.

(e) Exemption petitions containing proposals that are directly related to and concurrently filed with a primary application will be considered along with that primary application.

(f) Under 49 U.S.C. 10505(g), the Commission may not relieve a carrier from the statutory obligation to protect the interests of employees. Accordingly, the Commission will impose appropriate employee protective conditions in decisions involving transactions subject to mandatory labor protection. Where labor protection is not mandatory, the Commission will exercise its discretion and impose labor protection

when protection is found to be warranted under the circumstances.

(g) An exemption generally will be effective 30 days from the service date of the decision granting the exemption. Unless otherwise provided in the decision, petitions to stay must be filed within 10 days of the service date, and petitions to reopen under 49 CFR part 1115 or 1152.25(e) must be filed within 20 days of the service date. A petition to reopen may include comments on the proposal, requests for employee protection, or other conditions.

(h) For good cause shown, an exemption may become effective at a time earlier than 30 days from the date of service. In such cases, the decision will specify the time for filing petitions to stay or reopen the exemption.

(i) Under 49 U.S.C. 10505(d) or 49 CFR 1152.25(e), the Commission may revoke an exemption in whole or in part. Petitions to revoke may be filed any time after the exemption becomes effective. The person seeking revocation has the burden of showing that the revocation criterion of section 10505(d) is met.

(j) In abandonment exemptions, petitions to revoke in part to impose public use conditions under 49 CFR 1152.28, or to invoke the Trails Act, 16 U.S.C. 1247(d), may be filed at any time prior to consummation of the abandonment.

[56 FR 46391, Sept. 12, 1991, as amended at 57 FR 5237, Feb. 13, 1992]

## PARTS 1122–1129—[RESERVED]

### PARTS 1130–1149—RATE PROCEDURES

#### PART 1130—INFORMAL COMPLAINTS

AUTHORITY: 5 U.S.C. 553 and 559; 49 U.S.C. 10321, 10707 and 11712.

##### § 1130.1 When no damages sought.

(a) *Form and content; copies.* Informal complaint may be by letter or other writing and will be serially numbered as filed. The complaint must contain the essential elements of a formal complaint as specified at 49 CFR 1131.1 and may embrace supporting papers. The

original and one copy must be filed with the Commission.

(b) *Correspondence handling.* When an informal complaint appears susceptible of informal adjustment, the Commission will send a copy or statement of the complaint to each subject of the complaint in an attempt to have it satisfied by correspondence, thereby avoiding the filing of a formal complaint.

(c) *Discontinuance of informal proceeding.* The filing of an informal complaint does not preclude complainant from filing a formal complaint. If a formal complaint is filed, the informal proceeding will be discontinued.

[47 FR 49570, Nov. 1, 1982, as amended at 48 FR 44827, Sept. 30, 1983]

##### § 1130.2 When damages sought.

(a) *Actual filing required.* Notification to the Commission that an informal complaint may or will be filed later seeking damages is not a filing within the meaning of the statute except as provided in paragraph (e) of this section.

(b) *Content.* An informal complaint seeking damages must be filed within the statutory period, and should identify with reasonable definiteness the involved shipments or transportation services. The complaint should include:

(1) A statement that complainant seeks to recover damages;

(2) The names of each individual seeking damages;

(3) The names and addresses of defendants against which claim is made;

(4) The commodities, the rate applied, the date on which the charges were paid, the names of the parties paying the charges, and, if different, the names of the parties bearing the charges;

(5) The period of time within which or the specific dates upon which the shipments were made, and the dates when they were delivered or tendered for delivery;

(6) The specific origin and destination points or, where they are numerous, the territorial or rate group of the origin and destination points and, if known, the routes of movement; and

(7) The nature and amount of the injury sustained by each claimant.